IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Misc. No. 26146-M of 2006
Date of decision : August 07, 2007

Faqir Singh

.... Petitioner

versus

State of Punjab

.... Respondent

Present: Mr. Dhirinder Chopra, Advocate
for the petitioner.

Mr. IPS Sidhu, Sr. DAG, Punjab.

Mr. R.C. Setia, Sr. Advocate with
Mr. Vishal Ranjan, Advocate for
the complainant.

Ms. Jyoti Jain, Advocate for the
Complainant-Society.

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S.S. SARON, J.

This petition under Section 438 CrPC for grant of anticipatory bail has been filed by the petitioner in a case registered against him for the offences under Sections 409 and 120-B IPC.

The petitioner was working as a Secretary of the Ajnoha Cooperative Agricultural Service Society, Village Ajnoha Tehsil Garshankar, Distt. Hoshiarpur ("Society" – for short). The petitioner collected huge amounts from members and non-members of

the Society and did not deposit the said amount in the account of the Society. It this manner, he embezzled an amount of Rs.39,88,988/- as per the Audit report from the period from 01.04.2002 to 31.03.2003. Another sum amounting to Rs.43,89,661/- was embezzled as per Audit report for the period from 01.04.2003 to 31.03.2004. In this manner, a total amount of Rs.83,78,650/- is alleged to have been embezzled. On the basis of the allegations, FIR No.72 dated 6.4.2006 (Annexure P-5) has been registered on the complaint of Assistant Registrar, Cooperative Societies, Hoshiarpur. The FIR has been registered against the petitioner and one Gian Chand Inspector Incharge, Cooperative Societies. It has been alleged that Gian Chand Inspector Incharge of the Society with additional charge of the Dihana Circle with Headquarter at Tuto-Majra, on a resolution passed on 06.08.2005, had stated that the Secretary Sh. Faqir Singh (petitioner) by not entering in the day book and cash book, the fixed deposits and by refunding excess amount of FDs has embezzled the amount as detailed hereunder:-

Sr. No.	Member	Person	Amount
1.	Fixed Deposits (F.Ds.) by not entering	50	Rs.38,79,195/-
2.	By refunding excess F.D. amounts	27	Rs.11,64,797/-
3.	Refund of excess amount to the non-members	11	Rs. 11,49,309/-
Total		**97**	**Rs.61,93,301/-**

It was recommended that FIR be got registered against the Secretary, Sh. Faqir Singh by the Police under the appropriate Sections for cheating and for playing fraud, so that the embezzled amounts of the

Society could be recovered. The recommendation was sent to the Senior Superintendent of Police, Hoshiarpur, on the basis of which FIR has been registered.

The petitioner by way of the present petition seeks anticipatory bail in the FIR that has been registered against him. Learned counsel for the petitioner submits that the petitioner is working as a Secretary of the Society since 30.06.1988. The Society after taking loan from the Central Cooperative Bank, Baddon used to advance the same to its members. However, with the passage of time, the Society had sufficient funds and therefore it was felt that instead of taking loan from the aforesaid bank the loan be advanced to the members of the Society by the Society itself from its own funds. The Managing Committee of the Society passed a Resolution dated 06.11.2002 (Annxure P1) in this regard. The society thereafter started advancing huge amounts to its members and even purchased 10 shares of the Indian Farmers Fertilizers Cooperative Limited, New Delhi worth Rs.10,000,00/-. The Society members who had taken loan from the Society failed to pay back the due amount and became defaulter of the Society. The other members of the Society who had either deposited their amounts in their respective Saving Accounts or invested in Fixed Deposits started demanding their amounts from the Saving Accounts or the maturity value of the FD receipts. The Society, paid back some amount but as the borrower members defaulted in making the payment, the society failed to make payments of the remaining amount to its members. The members

who did not get the due amounts of the deposits, made complaints to various authorities including the Senior Superintendent of Police, Hoshiarpur, Registrar Cooperative Societies, Punjab and others. In view of the pressure that was put on the Society, the Managing Committee of the Society vide Resolution dated 30.07.2005 placed the petitioner under suspension. Later on, the Managing Committee was also suspended by the Assistant Registrar, Punjab State Cooperative Societies, Garshankar and an Administrator was appointed to look after the dealings of the Society. Some members have been approached this Court by way of a writ petition. It is submitted that the petitioner is absolutely innocent and he is being falsely implicated.

Learned counsel for the State on strength of replies filed by the Investigating Authorities has submitted that the petitioner is not cooperating with the investigation and recovery of the embezzled amount is to be made. Gian Chand who is co-accused joined investigation on 30.04.2006 and his bail had been confirmed on 08.09.2006. It is submitted that the statement of various witnesses have been recorded under Section 161 CrPC which shows that members and non-members of the society had deposited the amount in the Society through the petitioner. Thereafter, the petitioner embezzled the amount.

I have given my thoughtful consideration to the contentions of the learned counsel for the parties and also perused the record. It may be noticed that the FIR in the present case has

been registered on the basis of the Audit Report submitted by the Assistant Registrar, Cooperative Societies, Hoshiarpur. In terms of the Audit Report for the period from 01.04.2002 to 31.03.2003, the petitioner has embezzled an amount of Rs.83,78,650/-. A reading of the FIR also shows that the number of persons had been cheated. The petitioner was Secretary to the Society. As per Audit reports, his involvement is there.

In the circumstances, no ground for pre-arrest bail is made out.

Accordingly, the Crl. Misc. application is dismissed.

(S.S. SARON)
JUDGE

August 07, 2007
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